



General Assembly

Substitute Bill No. 5421

February Session, 2012

* ____HB05421FIN__040412____ *

AN ACT CONCERNING "ZAPPERS".

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2012*) (a) As used in this section:
- 2 (1) "Automated sales suppression device" or "zapper" means a
3 software program, carried on a memory stick or removable compact
4 disc, accessed through an Internet link or accessed through any other
5 means, that falsifies the electronic records of electronic cash registers
6 and other point-of-sale systems, including, but not limited to,
7 transaction data and transaction reports.
- 8 (2) "Electronic cash register" means a device that keeps a register or
9 supporting documents through the means of an electronic device or
10 computer system designed to record transaction data for the purpose
11 of computing, compiling or processing retail sales transaction data in
12 whatever manner.
- 13 (3) "Phantom-ware" means a hidden, preinstalled or installed at a
14 later time, programming option embedded in the operating system of
15 an electronic cash register or hardwired into the electronic cash register
16 that may be used to create a virtual second till, or may eliminate or
17 manipulate transaction records that may or may not be preserved in
18 digital formats to represent the true or manipulated record of
19 transactions in the electronic cash register.

20 (4) "Transaction data" means information that includes items
 21 purchased by a customer, the price for each item, a taxability
 22 determination for each item, a segregated tax amount for each of the
 23 taxed items, the amount of cash or credit tendered, the net amount
 24 returned to the customer in change, the date and time of the purchase,
 25 the name, address and identification number of the retailer, and the
 26 receipt or invoice number of the transaction.

27 (5) "Transaction report" means a report that includes, but need not
 28 be limited to, sales, taxes collected, media totals and discount voids at
 29 an electronic cash register that is printed on cash register tape at the
 30 end of a day or shift, or a report that documents every action at an
 31 electronic cash register that is stored electronically.

32 (b) Any person who wilfully and knowingly sells, purchases,
 33 installs, transfers or possesses any automated sales suppression device
 34 or phantom-ware shall (1) be fined not more than one hundred
 35 thousand dollars or imprisoned for not less than one or more than five
 36 years, or both, (2) be liable for all taxes, penalties and interest due to
 37 the state as a result of such sale, purchase, installation, transfer or
 38 possession, and (3) forfeit all profits resulting from the sale or use of
 39 such automated sales suppression device or phantom-ware.

40 (c) An automated sales suppression device or phantom-ware and
 41 any device containing such device or software shall be contraband,
 42 and shall be subject to confiscation by the Commissioner of Revenue
 43 Services.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | July 1, 2012 | New section |

FIN Joint Favorable Subst.